

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

KYLE FELLERS, ANTHONY FOOTE,
NICOLE FOOTE, and ELDON RASH,

Plaintiffs,

v.

MARCY KELLEY, Superintendent of
Schools, State Administrative Unit 67, in
her official and individual capacities;
MICHAEL DESILETS, Athletic
Director, Bow High School, in his official
and individual capacities; MATT FISK,
Principal, Bow High School, in his
official and individual capacities;
PHILLIP LAMY, Lieutenant, Bow Police
Department, in his individual capacity;
STEVE ROSSETTI, soccer referee, New
Hampshire Interscholastic Athletic
Association, in his individual capacity;
and BOW SCHOOL DISTRICT;

Defendants.

Case No. 1:24-cv-311-SM-AJ

**PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Plaintiffs move for an emergency temporary restraining order and preliminary injunction under Fed. R. Civ. P. 65 against all Defendants. Because of the immediate irreparable harm, Plaintiffs ask the Court to enter a restraining order by **Tuesday, October 8, 2024, at 6:45 pm**, to allow Plaintiffs, including Kyle Fellers, to attend the next Bow High School girls' varsity soccer game while silently wearing their pink wristbands on the sidelines. Proposed orders for both the temporary

restraining order and the preliminary injunction are attached to this motion, along with a memorandum in support.

Plaintiffs also request a preliminary injunction. For the reasons stated in the attached memorandum, Plaintiffs are likely to succeed on their claim that Defendants' policy prohibiting spectators at school athletic events from silently expressing views about girls' and women's sports by wearing pink wristbands or displaying signs in the parking lot violates the First Amendment. Enforcing that policy thus causes irreparable harm, and the balance of equities favors enforcing the Constitution, not ignoring it.

The Court should grant a temporary restraining order and preliminary injunction, waive any security requirement under Fed. R. Civ. P. 65(c), and immediately put an end to Defendants' unconstitutional conduct.

Dated: October 4, 2024

Respectfully submitted,

/s/ Richard J. Lehmann

Richard J. Lehmann
New Hampshire Bar No. 9339
LEHMANN MAJOR LIST PLLC
6 Garvins Falls Road
Concord, New Hampshire 03301
Tel: (603) 731-5435
Fax: (720) 995-9156
rick@nhlawyer.com

Endel Kolde*
DC Bar No. 1782129
Brett R. Nolan*
DC Bar No. 90014964

Nathan J. Ristuccia*†
Virginia Bar No. 98372
INSTITUTE FOR FREE SPEECH
1150 Connecticut Ave., NW
Suite 801
Washington, D.C. 20036
Tel: (202) 301-3300
Fax: (202) 301-3399
dkolde@ifs.org
bnolan@ifs.org
nristuccia@ifs.org

**Pro hac vice status pending*

Counsel for Plaintiff

CERTIFICATE OF NOTICE

I hereby certify that, on October 4, 2024, I emailed notice of Plaintiffs' intent to seek this motion to Bow School District General Counsel Matt Upton and Lt. Lamy's counsel Eric Maher. Immediately after motion is filed in ECF, I will email both counsel filed copies of the motion, memorandum, and supporting filings. I have also requested that local counsel mail copies of the same to Steve Rossetti today.

Executed under penalty of perjury.

Dated: October 4, 2024

s/Endel Kolde

† Not a D.C. Bar Member but providing legal services in the District of Columbia exclusively before federal courts, as authorized by D.C. Ct. App. R. 49(c)(3).